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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,927	09/28/2005	Frank Sansevero	60429-234; OT-5276LAB	3758
64779 7590 06/16/2009 CARLSON GASKEY & OLDS 400 W MAPLE STE 350 BIRMINGHAM, MI 48009				
EXAMINER				
PRAKASAM, RAMYA G				
ART UNIT		PAPER NUMBER		
3651				
MAIL DATE		DELIVERY MODE		
06/16/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: FRANK SANSEVERO, CARLA MAJUNTKE, RALPH
STRIPLING, SCOTT ASHWORTH, BERNWARD ENGELKE,
QINGDONG RICHARD JIANG, and RUOMING ROY

Application No. 10/550,927
Technology Center 3600

Mailed: June 16, 2009

Before Deborah L. PERRY, *Supervisory Paralegal Specialist, Review Team*
PERRY, *Supervisory Paralegal Specialist, Review Team*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 8, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section 1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

The Examiner's Answer mailed **April 16, 2008** is deficient because the "Evidence Relied Upon" section fails to include the reference(s) **Saito (U.S. Patent No. 4,798,274)** cited on page(s) **5** in the Examiner's Answer's grounds of rejection of **Claim 28** under 35 USC §103(a). Correction is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to issue a PTOL-90 correctly setting forth the Evidence Relied Upon section and to correct other sections of the Answer as may be required; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/klh

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